



DEPARTMENT OF LABOR

Employment and Training Administration

Guam Military Base Realignment Contractor Recruitment Standards -- Revised

AGENCY: Employment and Training Administration, Labor.

ACTION: Final notice.

SUMMARY: The U.S. Department of Labor (Department), Employment and Training Administration (ETA), is issuing this notice to revise recruitment standards that construction contractors are required to follow when recruiting United States (U.S.) workers for Guam military base realignment projects authorized by the National Defense Authorization Act (NDAA) for Fiscal Year 2010.

DATES: This notice is effective upon publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Donald Haughton, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room C-4526, Washington, DC 20210. Telephone (202) 693-2784 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD), fax: (202) 693-3015, email: Haughton.donald.w@dol.gov.

SUPPLEMENTARY INFORMATION: Section 2834(a) of the NDAA for Fiscal Year 2010 (Pub. L. 111-84, enacted October 28, 2009) amended Section 2824(c) of the Military Construction Authorization Act (division B of Public Law 110-417; 10 U.S.C. 2687 note) by adding a new subsection (6). This provision prohibits contractors engaged in construction projects related to the realignment of U.S. military forces from Okinawa to Guam from hiring workers holding H-2B visas under the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(ii)(b), unless the Governor of Guam (Governor), in consultation with the Secretary of Labor (Secretary), certifies that:

- (1) There is an insufficient number of U.S. workers that are able, willing, qualified, and available to perform the work; and
- (2) the employment of workers holding H-2B visas will not have an adverse effect on either the wages or the working conditions of workers in Guam.

In order to allow the Governor to make this certification, NDAA requires contractors to recruit workers in the U.S., including in Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the U.S. Virgin Islands, and Puerto Rico, according to the terms of a recruitment plan developed and approved by the Secretary. That recruitment plan is reproduced in full in Section I below ("Contractor Recruitment Instructions").

The Department developed the Contractor Recruitment Instructions in full consultation with, and with the approval of, the Guam Department of Labor (GDOL). Although the Department developed the recruitment standards, it has assigned oversight of the Contractor Recruitment Standards and the NDAA-

required consultation with the Governor to GDOL through a Memorandum of Understanding between the Department and GDOL, effective November 22, 2011, (the MOU can be found on the www.reginfo.gov/public/do/PRAMain web site).

Under NDAA, no Guam base realignment construction project work may be performed by a person holding an H-2B visa under the Immigration and Nationality Act until the contractor complies with the Department's Contractor Recruitment Standards, and the Governor of Guam issues the certification noted above.

I. Guam Military Base Realignment Contractor Recruitment Instructions

Guam military base realignment contractors must take the following actions to recruit U.S. workers.

1. At least 60 days before the start date of workers under a base realignment contract, contractors must:

a. Submit a job posting via a completed Job Order (Guam Form GES 514) in person at the Guam Employment Service office, which is open Monday through Friday (except holidays) 8 a.m. to 5 p.m., at 710 Marine Corps Drive, Suite 301, Bell Tower Plaza, Hagatna (for assistance please call (671)-475-7000).

The job posting must be posted on the GDOL Job Bank for at least 21 consecutive days;

b. Submit a job posting with the state workforce agency's Internet job boards, for the Commonwealth of the Northern Mariana Islands at <https://marianaslabor.net/employer.asp>, and in the following states:

i. Alaska (www.jobs.state.ak.us);

ii. California (www.caljobs.ca.gov);

iii. Hawaii (www.hirenethawaii.com);

iv. Oregon (www.emp.state.or.us/jobs); and

v. Washington (<https://fortress.wa.gov/esd/worksource/Employment.aspx>).

c. Post a help wanted ad in the local newspaper for American Samoa and have a notice posted in the American Samoa Human Resources agency office. For assistance with these tasks, please see the American Samoa Human Resource agency contacts listed at www.jobbankinfo.org.

For contractors needing assistance with job postings, additional contact information and a link to the required Guam form GES 514 are listed at www.jobbankinfo.org.

Each job posting must be posted for at least 21 consecutive days.

d. Submit a job posting with an Internet-based job bank that :

i. is national in scope, including the entire U.S., Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico;

ii. allows job postings for all occupations; and

iii. is free of charge for job seekers and their intermediaries in American Job Centers (also known as One-Stop Career Centers) and the U.S. workforce investment system nationwide.

e. Where the occupation or industry is customarily unionized, contact the local union in Guam in writing to seek U.S. workers who are qualified and who will be available for the job opportunity.

2. Each job posting in (A)(1) through (5) must include, at a minimum, the following information:

a. The contractor's name and appropriate contact information for applicants to inquire about the job opportunity, or to send applications and/or resumes directly to the employer;

b. The geographic area of employment, with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the services or labor;

c. A statement indicating whether or not the employer will pay for the worker's transportation to Guam;

d. If the employer provides transportation, include a statement that daily transportation to and from the worksite(s) will be provided by the employer;

e. A description of the job opportunity with sufficient information to apprise U.S. workers of the services or labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;

f. If the employer makes On-the-Job Training (OJT) available, a statement that it will be provided to the worker;

g. If required by law, a statement that overtime will be available to the worker and the wage offer for working any overtime hours;

h. The wage offer, and the benefits, if any, offered;

i. A statement that the position is temporary;

j. The total number of job openings the employer intends to fill; and

k. If the employer provides the worker with the option of board, lodging, or other facilities, including fringe benefits, or intends to assist workers to secure such lodging, a statement disclosing the provision and cost of the board, lodging, or other facilities, including fringe benefits or assistance to be provided.

3. During the 28-day recruitment period, which begins on the earliest job posting date, contractors must interview all qualified and available Guam and U.S. construction workers who have applied for the employment opportunity.

4. After the close of the recruitment period, and no later than 30 days before the start date of workers under a contract, the contractor must provide a report including the following information via email to

GDOL at ndaa.recruitment@dol.guam.gov, documenting its efforts to recruit U.S. workers from the U.S. and all U.S. territories.

- a. Indicate all the recruitment approaches used to recruit workers, including an identification of the Internet job banks where the postings occurred, the occupation or trade, a description of wages and other terms and conditions of employment, the dates of each posting, and the job order or requisition number;
- b. A copy of each job posting;
- c. How each job posting and response was handled, including:
 - i. the number of job applications received;
 - ii. the name of each applicant;
 - iii. the position applied for;
 - iv. the final employment determination for each applicant or job candidate; and
 - v. for each U.S. job applicant not hired, a description of the specific, lawful, job-related reason for rejecting the applicant for employment, which includes a comparison of the job applicant's skills and experience against the terms listed in the original job posting.

Contractors may provide much of this information in the form of a table or spreadsheet, so that instead of a narrative style the contractor need only check an appropriate box or provide a phrase, number or date (e.g., to indicate whether an individual reported for an interview or not, or lacked specific qualifications).

II. Public Burden Statement

The Office of Management and Budget (OMB) has approved the Department's request to extend the information collection (OMB Control Number 1205-0484) for three years, expiring October 31, 2018.

Persons are not required to respond to this collection of information unless it displays a valid OMB control number (1205-0484). The public reporting burden for this collection of information is estimated at three hours per job order, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Further information on this ICR can be accessed using control number 1205-0484 at www.reginfo.gov/public/do/PRAMain. To do this, use the following instructions:

1. Go to the first "Select Agency" box and click on the drop-down arrow, and then select "Department of Labor." Then, click on the "Submit" button to the right of the box.
2. Each entry lists the OMB Control Number at the top of the entry. Scroll down the screen until 1205-0484 appears (the entries are in numerical order).
3. Once you reach 1205-0484, click on the number immediately below that, the ICR Reference Number (not the Control Number itself).

4. To see the Information Collection notices themselves, click on ``View Information Collection (IC) List" near the top of the page on the left. To see the Report to Congress, the MOU, the ICR Supporting Statement and other relevant documents, click on ``View Supporting Statement and Other Documents" near the top of the page on the right.

Portia Wu,

Assistant Secretary for Employment and Training.

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